

TITLE 410 INDIANA DEPARTMENT OF HEALTH

LSA Document #21-23

Summary of and Response to Comments

Comment:

The definition of laboratory in 410 IAC 5.1-1-9 was updated in the emergency rule, but the updated definition is not included in the updated rule. This definition should be included in the updated rule.

Response:

The final rule has been changed to update this definition.

Comment:

In 410 IAC 5.1-1-22, the intent of this exclusion is to provide persons who own or rent the opportunity to test or mitigate their place of residence. Unintended consequences arise with the proposed language, in that any person who simply occupies a building could test or mitigate the building (e.g. property manager, maintenance person). By using the term ‘dwelling’, with the definition of ‘a house, apartment, or other place of residence’, only persons residing in a dwelling that they occupy would be permitted to conduct testing and/or mitigation, effectively closing the loophole typically exploited by property owners who do not reside in the building.

Response:

Although this concern is addressed by the change from “owns” to “occupies,” the final rule will change “building” to “dwelling” for clarity.

Comment:

In 410 IAC 5.1-1-25(b)(1)(A)-(C), these standards are not applicable to radon laboratories. These standards are applicable to primary and secondary radon testers utilizing passive monitors manufactured and analyzed by a radon laboratory.

Response:

These standards are removed from the final rule.

Comment:

In 410 IAC 5.1-1-26(b) and (c), the standard covers these items.

Response:

These items have been removed from the final rule as they are covered by the standard.

Comment:

In 410 IAC 5.1-1-27, change “laboratory testers” to “laboratory.”

Response:

This change has been made to the final rule.

Comment:

In 410 IAC 5.1-1-28(b), recommend changing “any construction undertaken to mitigate for radon-222 shall be in accordance with all applicable state and local building codes. Such construction shall be conducted or supervised by a certified radon mitigator who, at a minimum,

shall be present at the start of such construction and at the conclusion of such construction” to “any mitigation shall be conducted in accordance with the applicable mitigation standard referenced in Section 26(d)1 and shall meet all applicable state and local building codes. A certified radon contractor shall conduct or supervise all mitigation activities.”

Response:

IDOH believes the language in the proposed rule provides the specificity needed.

Comment:

In 410 IAC 5.1-1-28(f), recommend removing “screening measurements, follow-up measurements” and “if known.”

Response:

IDOH believes the language in the proposed rule is adequate.

Comment:

In 410 IAC 5.1-1-28(f) and (g), recommend the following changes:

- (1) The name of the certified individual **or entity** providing the service.
 - (2) The complete ~~mailing~~ **property** address of the building involved.
 - (3) The county in which the building is located.
 - (4) The type of radon-222 mitigation conducted, if any.
 - (5) The type of measurement conducted (screening **initial**, follow-up, or ~~postmitigation~~ **post-mitigation**) and the results in picocuries per liter.
 - (6) The date of last calibration of the detection instrument and the instrument serial number, **if applicable**.
- (g) Records of radon-222 tests, quality assurance ~~programs~~ **plans**, calibration measurements, and equipment repairs conducted by a certified secondary radon tester, primary radon tester, or radon laboratory ~~tester~~ shall be retained by that individual or entity for at least three (3) years. Records of mitigation conducted by a certified radon mitigator shall be retained by that individual **or entity** for at least three (3) years.

Response:

These changes have been made to the final rule.

Comment:

In 410 IAC 5.1-1-29, add “or entity” after “individual,” and change “laboratory tester” to “laboratory.”

Response:

These changes have been made to the final rule.

Comment:

In 410 IAC 5.1-1-31, recommend removing the publication year of the documents incorporated by reference.

Response:

Incorporation by reference must include the specific edition that is being incorporated. As such, the proposed rule, with publication years specified, will remain.